

APPEAL NO. 032183
FILED SEPTEMBER 18, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 22, 2003. The hearing officer determined that: (1) the appellant (claimant) sustained a compensable injury on _____; and (2) the compensable injury does not include an injury to the L4-5 disc. The claimant appealed the hearing officer's extent-of-injury determination on sufficiency of the evidence grounds. The claimant also asserts that the hearing officer erred by not addressing the issue of carrier waiver certified in the Benefit Review Conference (BRC) Report and asserts that the carrier waived its right to dispute the original claimed injury, which includes an injury to the L4-5 disc. The respondent (carrier) urges affirmance. The hearing officer's injury determination was not appealed and has become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the compensable injury does not include an injury to the L4-5 disc. The determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

As stated above, the claimant asserts that the hearing officer erred by not addressing the issue of carrier waiver certified in the BRC Report and asserts that the carrier waived its right to dispute the original claimed injury, which includes an injury to the L4-5 disc. Prior to the close of the hearing, however, the claimant conceded that carrier did not waive its right to dispute compensability in this case and withdrew the issue of carrier waiver. Accordingly, we perceive no reversible error.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge